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July 15, 2020

Honorable Sanket J. Bulsara  
United States Magistrate Judge, E.D.N.Y.  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Hamilton v. City of New York, et al.  
15 CV 4574 (CBA) (SJB)

Dear Judge Bulsara,

I represent Scott Brettschneider ("Brettschneider"), formerly counsel for Plaintiff. Mr. Brettschneider hereby moves to supplement his Petition Under Judiciary Law § 475 to Determine and Enforce Attorney's Lien (ECF # 179-1), and specifically for Leave to File the attached Affidavit of Plaintiff Hamilton.

On January 17, 2020, Mr. Brettschneider filed his petition to determine and enforce his attorney's lien on Plaintiff's settlement in the case at bar. A hearing was scheduled for March 5, 2020 regarding Mr. Brettschneider's petition (ECF # 179) and the motion filed by Elefterakis, Elefterakis & Panek ("EEP"), Plaintiff's attorneys, for, *inter alia*, a briefing schedule regarding Plaintiff's prior counsel's claims for attorney's fees (ECF # 177).

Mr. Brettschneider's Petition and EEP's motion are currently still pending. On January 17, 2020, the Court ordered that any responses to either ECF # 177 or ECF # 179 must be filed by February 7, 2020 and any reply by February 21, 2020. Accordingly, EEP's counsel filed a letter on February 7, 2020 (ECF # 187) and Mr. Brettschneider responded on February 21, 2020 (ECF # 191). (Mr. Brettschneider's eight-page adjournment request, ECF # 193, was later struck from the record as an improper brief.) The hearing itself was initially adjourned to March 30, 2020 and was later adjourned *sine die*.

In EEP's letter of February 7, 2020, EEP claims that Mr. Brettschneider is not entitled to ANY attorney's fee in the case at bar on the grounds that Plaintiff allegedly terminated Mr. Brettschneider for cause. ECF # 187.

On June 29, 2020, Patrick Megaro, an attorney based in Orlando, Florida, e-mailed to me an affidavit from Plaintiff Derrick Hamilton dated June 26, 2020. See attached Affidavit of Derrick Hamilton. I forwarded the Affidavit to counsel for EEP that morning.

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In this new evidence, Plaintiff not only explained his understanding of what the attorney fee arrangement was, Aff. ¶ 2, and stated his intention, when hiring EEP, that the firm honor his fee arrangement with Mr. Brettschneider, Aff. ¶ 4, but Plaintiff also explicitly contradicted EEP's allegation that Plaintiff terminated Mr. Brettschneider for cause. Aff. ¶¶ 5, 7. Mr. Hamilton also stated that he is ready and willing to testify if necessary. Aff. ¶ 10.

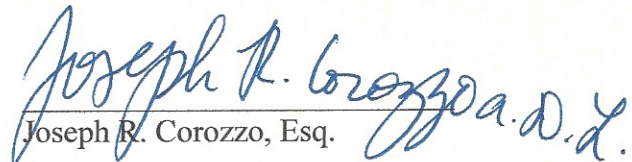
This evidence is clearly relevant to Mr. Brettschneider's pending Petition for the Determination and Enforcement of his Attorney's Lien. EEP, by the firm's letter of February 7, 2020 (ECF # 187), put in issue whether Mr. Brettschneider was terminated for cause, in the course of arguing that Mr. Brettschneider should be denied any attorney's fees in this matter. ECF # 187.

Further, this evidence was not available to Mr. Brettschneider during the course of the briefing schedule in February 2020. This Affidavit was sent to counsel for Mr. Brettschneider over four months after his reply to EEP's Letter of February 7, 2020 was due. (Though, we do note that before the hearing was adjourned *sine die*, Mr. Brettschneider had anticipated introducing evidence during the course of the hearing on his Petition. He just could not have anticipated introducing the attached Affidavit.)

Wherefore, in light of this new evidence, Mr. Brettschneider respectfully requests that the Court permit him to supplement the record on his pending petition with the attached Affidavit of Plaintiff Hamilton.

Thank you for your consideration.

Respectfully submitted,

  
Joseph R. Corozzo, Esq.

cc: Michael Ross, Counsel for EEP (via ECF)